

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

LAKESHA L. NORINGTON,)	
)	
Plaintiff,)	Civil Action No. 18-1136
)	Judge Nora Barry Fischer/
v.)	Chief Magistrate Judge Maureen P. Kelly
)	
WEXFORD HEALTH SOURCES INC., et al,)	
)	Re: ECF No. 1
Defendant.)	

ORDER

The above-captioned prisoner civil rights complaint and request to proceed in forma pauperis (“IFP”) were received by the Clerk of Court on August 28, 2018, and were referred to Chief United States Magistrate Judge Maureen P. Kelly for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation, ECF No. 3, filed on September 6, 2018, recommended denial of Plaintiff's IFP motion because Plaintiff had accumulated “three strikes” pursuant to 28 U.S.C. § 1915(g) of the Prison Litigation Reform Act (“PLRA”). Service was made on the Plaintiff at the address of record for Plaintiff, who filed objections. ECF No. 3. The Objections do not merit rejection of the Report.

Plaintiff raises essentially two arguments in the Objections. First, Plaintiff seemingly suggests that the judgment in one of the cases referred to in the Report but not counted as a strike, i.e., Norington v. State of Indiana, 3:14-cv-661 (N.D. Ind. April 10, 2014), is voidable. ECF No. 3 at 5. The Report only referred to Civ. A. No. 14-cv-661 to show that Plaintiff had a litigious history. ECF No. 2 at 2. The Report did not rely on that case for any other reason.

Accordingly, Plaintiff's contention that the judgment in No. 14-cv-661 is voidable, even if true, is of no significance as to whether or not Plaintiff has acquired three strikes.

The second argument Plaintiff makes is that somehow enforcement of the three strikes rule violates the right to equal protection. This argument is unavailing. See, e.g. Bensinger v. Kunz, CIV. A. 98-6014, 1999 WL 79095, at *2 (E.D. Pa. Jan. 20, 1999) "In addressing the equal protection argument, the Rivera court found indigent prisoners are not a protected class, and the right to court access is not a fundamental right, so the appropriate test is whether the differential treatment of indigent prisoners has a rational basis. *See id.* at 727. Since Congress has a legitimate interest in preventing prisoner abuse of the judicial system and '[s]ection 1915(g) rationally serves these ends through its requirement that prisoner indigents with three strikes prepay the entire filing fee before the court may further review their lawsuits,' there is a rational basis for § 1915(g), and it does not violate equal protection."). Accordingly, we find none of the Objections persuasive and they are overruled.

AND NOW, this 2nd day of October 2018;

IT IS HEREBY ORDERED that the Plaintiff's motion for leave to proceed in forma pauperis is **DENIED**. Plaintiff is **ORDERED** to pay the entire filing fee by October 23, 2018 or the case will be dismissed for failure to prosecute.

IT IS FURTHER ORDERED that the Report and Recommendation, ECF No. 2, filed on September 6, 2018, by Chief Magistrate Judge Kelly, is adopted as the opinion of the court.

BY THE COURT:

s/Nora Barry Fischer
Nora Barry Fischer
United States District Court Judge

cc: The Honorable Maureen P. Kelly
Chief United States Magistrate Judge

LAKESHA L. NORINGTON
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